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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF	:
TARO KURITA	: EXAMINER: JACOB, AJITH
SERIAL NO: 10/567,921	:
FILED: FEBRUARY 10, 2006	: GROUP ART UNIT: 2161
FOR: INFORMATION MANAGEMENT DEVICE AND INFORMATION MANAGEMENT METHOD	:

APPEAL BRIEF

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

Applicants appeal the outstanding Final Rejection of March 25, 2009, finally rejecting each of pending Claims 1-12.

I. REAL PARTY IN INTEREST

The above-noted application is assigned to Sony Corporation, which is the real party in interest, having a place of business at Tokyo, Japan.

II. RELATED APPEALS AND INTERFERENCES

Applicant and Applicant's representative are not aware of any related appeals or interferences that will directly effect or be directly affected by or having a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 1-12 are pending in this application and the rejection of each of Claims 1-12 is being appealed. No claims were cancelled, but Claims 11 and 12 were added during prosecution of this application.

IV. STATUS OF AMENDMENTS

A Request for Reconsideration was filed in response to the final Office Action dated March 25, 2009. Accordingly, all previously filed Amendments have been considered by the Examiner and are reflected in the attached claims.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Independent Claim 1 is directed to a mobile phone, which generally finds support in Figure 15 (mobile terminal 1100 with IC Card Section built into the mobile terminal; See page 23, lines 4-12). See also page 9, line 12 of the specification.

In particular, Claim 1 recites a communication section configured to transmit/receive data through a wireless or wired transmission path, which finds support, e.g., in Figure 15 (external interface 1005) and page 23, lines 4-12 of the specification. See also Figure 11, as well as Figure 15 (antenna section 1001 and analog section 1002 for communication with a card reader).

Further, Claim 1 recites a data processing section configured to process the data transmitted/received by the communication section, which finds support, e.g., in Figure 15 (digital controller 1003) and page 21, lines 23-25 of the specification.

Further, Claim 1 recites a memory space in which a file processed by the data processing section is arranged, which finds support, e.g., in Figure 15, memory 1004) and

Figure 11 (nonvolatile memory), and page 22 line 1. See also Figures 3-10, which illustrate the file system.

In addition, Claim 1 recites archive-file creating means for creating an archive file for at least one file to be backed up, wherein identification information of a destination terminal at which the archive file is to be decompressed is attached to the archive file so that the archive file can be decompressed only at the destination terminal specified by the identification information, which finds support in Figure 12 (archive creating section, which is implemented as part of the digital controller 1003 shown in Figure 13) and page 37, lines 18-25 and page 38, lines 8-11 of the specification. Figure 12 also illustrates the claimed archive file, destination terminal, and the claimed identification information of a destination terminal (terminal ID). See also page 11, lines 8-10 ("...the archive file can be decompressed by only an apparatus specified with the terminal ID.").

Finally, Claim 1 recites means for generating, in the memory space, an access management information file that includes a counter value indicating a maximum number of times that the archive file can be accessed, which finds support, e.g. in page 38, lines 20-24 of the specification. The digital controller 1003 in Figure 15 is the structure that performs the generating of the access management file. See also the counter files in Figures 12-14 and original Claim 3.

Independent Claim 6 is directed to an information management method for a mobile phone, which generally finds support in Figure 15 (mobile terminal 1100 with IC Card Section built into the mobile terminal; See page 23, lines 4-12). See also page 9, line 12 of the specification.

In particular, Claim 6 recites a communication step of transmitting/receiving data through a wireless or wired transmission path, which finds support, e.g., in Figure 15 (external interface 1005) and page 23, lines 4-12 of the specification. See also Figure 11, as

well as Figure 15 (antenna section 1001 and analog section 1002 for communication with a card reader).

Further, Claim 6 recites a data-processing step of processing, by the mobile phone, the data transmitted/received in the communication step, which finds support, e.g., in Figure 15 (digital controller 1003) and page 21, lines 23-25 of the specification.

Further, Claim 6 recites a step of arranging a file, processed in the data processing step, in a memory space of the mobile phone, which finds support, e.g., in Figure 15, memory 1004) and Figure 11 (nonvolatile memory), and page 22, line 1. See also Figures 3-10, which illustrate the file system.

In addition, Claim 6 recites an archive-file creating step of creating an archive file for at least one file to be backed up, identification information of a destination terminal at which the archive file is to be decompressed being attached to the archive file so that the archive file can be decompressed only at the destination terminal specified by the identification information, which finds support in Figure 12 (archive creating section, which can be implemented as part of the digital controller 1003 shown in Figure 13) and page 37, lines 18-25 and page 38, lines 8-11 of the specification. Figure 12 also illustrates the archive-file creating step and the claimed archive file, destination terminal, and the claimed identification information of a destination terminal (terminal ID). See also page 11, lines 8-10 ("...the archive file can be decompressed by only an apparatus specified with the terminal ID.").

Finally, Claim 6 recites generating, in the memory space, an access management information file that includes a counter value indicating a maximum number of times that the archive file can be accessed, which finds support, e.g. in page 38, lines 20-24 of the specification. See also the counter files in Figures 12-14 and Figure 16 (step S1).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The grounds of rejection being appealed are:

(1) whether the teachings of U.S. Patent Application Publication No. 2003/0028867 to Kryloff et al. (hereinafter "the '867 application") anticipates the subject matter of each of Claims 1-3, 5-8, and 10-12 under U.S.C. § 102(b); and

(2) whether the teachings of the '867 application in view of U.S. Patent No. 6,223,026 to Martschitsch et al. (hereinafter "the '026 patent") render obvious the subject matter of each of Claims 4 and 9 under U.S.C. § 103(a).

VII. ARGUMENT

Claims 1-3, 5-8, and 10-12

Claim 1 is directed to a mobile phone, comprising:

> a communication section configured to transmit/receive data through a wireless or wired transmission path;
>
> a data processing section configured to process the data transmitted/received by the communication section;
>
> a memory space in which a file processed by the data processing section is arranged;
>
> archive-file creating means for creating an archive file for at least one file to be backed up, wherein identification information of a destination terminal at which the archive file is to be decompressed is attached to the archive file so that the archive file can be decompressed only at the destination terminal specified by the identification information; and
>
> means for generating, in the memory space, an access management information file that includes a counter value indicating a maximum number of times that the **archive file** can be accessed.

Applicants respectfully traverse the rejection of Claim 1 as anticipated by the '867 application.

Initially, Applicants note that, in the previous amendment filed December 4, 2008, Claim 1 was amended to incorporate limitations recited in original Claim 4, which was, and still is, rejected under 35 U.S.C. § 103(a) as being unpatentable over the '867 application in view of the '026 patent. However, despite the amendment to Claim 1 and the previous reliance on the '026 patent, the outstanding Office Action does not rely on any of the teachings of the '026 patent in its rejection of Claim 1.

The '867 application is directed to a system for generating a patch file from an old version of data and a new version of data, both of which consist of a series of elements. As shown in Figure 3, the '867 application discloses that the old version of data is sorted alphabetically and the new version of data is sorted alphabetically to create respective lists of sorted data. Further, the '867 application discloses that the two lists are recursively compared to search for a match for the data. In this manner, the '867 application discloses that a patch file is created and that several patch files may be aggregated into a secure portable compressed "archive" to decrease the storage and transfer requirements of the patch file. As noted on page 6 of the outstanding Office Action, paragraph [0023] of the published '867 application discloses that "the portable archive includes features to detect the presence of the files to be patched on a target system and then applies the sequence of patches automatically. In other words, the invention provides a self-extracting .ZIP file with intelligence to determine if a patch is necessary and how the patch should be implemented."[1]

However, Applicants respectfully submit that the '867 application fails to disclose archive-file creating means for creating an archive file for at least one file to be backed up, wherein identification information of a destination terminal at which the archive file is to be decompressed is attached to the archive file so that the archive file can be decompressed only

[1] See paragraph [0023] of the '867 application.

at the destination terminal specified by the identification information, as recited in Claim 1. The '867 application is silent regarding identification information of a destination **terminal**.

In this regard, Applicants note that the "Response to Arguments" section of the Office Action on page 7 states that paragraphs 24 and 25 of the '867 application disclose this limitation because these paragraphs teach "the availability of digital certificates, IDs and other forms of authentication that prevents unauthorized users from accessing the files to be extracted." However, Applicants note that Claim 1 recites attachment to the archive file of identification information of a destination **terminal**, not digital certificates for users.

Further, Applicants respectfully submit that the '867 application fails to disclose means for generating, in the memory space, an access management information file that includes a counter value indicating a **maximum** number of times that the **archive file** can be accessed, as recited in Claim 1. In this regard, Applicants note that page 3 of the Office Action cites to paragraph 23 of the '867 application as disclosing this limitation because it discloses "sequenced access and only accessed if necessary." As discussed above, paragraph 23 of the published '867 application discloses that "the portable archive includes features to detect the presence of the files to be patched on a target system and then applies the sequence of patches automatically. In other words, the invention provides a self-extracting .ZIP file with intelligence to determine if a patch is necessary and how the patch should be implemented."[2]

Thus, as best understood, the Office Action is asserting that the '867 application discloses the claimed means for generating an access management information file that includes a counter value because it discloses: (1) applying patches in sequence, and (2) only applying the patches if necessary. It is unclear to Applicants what paragraph 23 has to do with the claimed "access management information file that includes a counter value

[2] See paragraph [0023] of the '867 application. Emphasis added.

indicating a maximum number of times that the archive file can be accessed," as recited in Claim 1. '867 paragraph 23 doesn't mention a counter or the maximum number of times that an archive file can be accessed. Rather, '867 paragraph 23 merely discloses that the patches in an archive file are applied to stored data to update the stored dated in a sequential manner, and only as necessary. This disclosure merely relates to how the underlying data files that have been archived, i.e., the '867 patch files, are used in the '867 system, and is unrelated to the claimed access management information file.

Further, Applicant notes that the Office Action does not specifically identify the claimed access management information file within the teachings of the '867 application. Paragraph 23 of the '867 application only discloses an archive file, but is silent regarding the claimed access management information file, which is generated in a memory space of a mobile phone.

Further, Applicants respectfully submit that the '867 application is silent regarding the mobile phone recited in Claim 1.

For the reasons stated above, Applicants respectfully traverse the rejection of Claim 1 (and all similarly rejected dependent claims) as anticipated by the '867 application.

Independent Claim 6 is a method claim that recites limitations analogous to the limitations recited in Claim 1. Accordingly, for the reasons stated above, Applicants respectfully traverse the rejection of Claim 6 (and all similarly rejected dependent claims) as anticipated by the '867 application.

Further, Applicants note that Claim 3 clarifies that the file associating designating means generates **a file-link designating file** that designates a link between the at least one file whose archive file was created and the access management information file, which includes the counter value. See, e.g., Figure 13. Applicants respectfully submit that this limitation is not taught or suggested by the '867 application.

In addition, Claim 11, which depends from Claim 1, clarifies that the mobile phone further comprises means for authenticating the access management information file using an independent key **different from a symmetric key** used to authenticate the archive file. Further, Claim 12 clarifies that the mobile phone further comprises means for **simultaneously** authenticating the archive file and the access management information file. The Office Action cites to paragraph 16 of the '867 application, which merely discloses the use of encryption and digital signatures. Applicants respectfully submit that the specific limitations recited in Claims 11 and 12 are not disclosed by '867 paragraph 16. For example, Claim 11 recites two different keys, but the Office Action does not specifically address this limitation.

Claims 4 and 9

Regarding the rejection of dependent Claim 4 under 35 U.S.C. § 103(a), the Office Action asserts that the '867 application discloses everything in Claim 4 with the exception of the management means that decrements the counter value every time the access management information file is opened, an relies on the '026 patent to remedy that deficiency.

The '026 patent is directed to a SIM card for a prepaid mobile telephone that includes a counter that keeps track of the amount of telephone charges used by the user of the mobile telephone. The '026 patent discloses that the SIM card stores a value indicating a maximum amount (e.g., in dollars) of telephone usage that can be charged, compares to the maximum amount to a predicted amount for a placed call, and blocks calls according to the result. Further, the '026 patent discloses that the system does not block calls intended for one or more predetermined numbers stored in card, for example, an emergency number or a number of a server to reload the card.[3]

[3] See '026 patent, Abstract.

Applicants respectfully submit that the '026 patent fails to remedy the deficiencies of the '867 application, as discussed above. Accordingly, Applicants respectfully submit that a *prima facie* case of obviousness has not been established and that the rejection of Claim 4 should be withdrawn.

Further, regarding Claim 4, Applicants note that Claim 4 clarifies that the access management means decrements the counter value every time the access management information file is opened. In this regard, Applicants note that page 5 of the outstanding Office Action states that the '026 patent discloses this limitation because it discloses a SIM card that adds up the charges being accessed. However, Applicants note that Claim 4 states that the counter value is decremented, not incremented, as disclosed by the '026 patent. Further, as discussed above, the values disclosed by the '026 patent are unrelated to the number of times that an archive file is accessed.

Thus, no matter how the teachings of the '867 application and the '026 patent are combined, the combination does not teach or suggest that the access management means decrements the counter value every time the access management information file is opened, as required by Claim 4. For this additional reason, Applicants respectfully submit that Claim 4 patentably defines over any proper combination of the '867 application and the '026 patent.

For similar reasons as set forth above for Claim 4, Applicants respectfully submit that Claim 9 patentably defines over any proper combination of the '867 application and the '026 patent.

VIII. CONCLUSION

For the foregoing reasons, Applicants respectfully submit that each of Claims 1-12 patentably distinguishes over the combination of the teachings of the '867 application and the '026 patent. Therefore, the outstanding rejections must be REVERSED.

Respectfully submitted,

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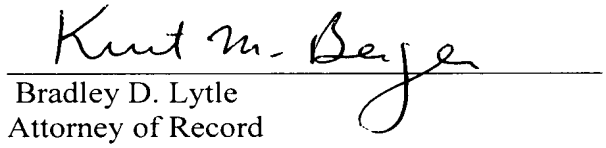

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CLAIMS APPENDIX

1. (Rejected) A mobile phone, comprising:

a communication section configured to transmit/receive data through a wireless or wired transmission path;

a data processing section configured to process the data transmitted/received by the communication section;

a memory space in which a file processed by the data processing section is arranged;

archive-file creating means for creating an archive file for at least one file to be backed up, wherein identification information of a destination terminal at which the archive file is to be decompressed is attached to the archive file so that the archive file can be decompressed only at the destination terminal specified by the identification information; and

means for generating, in the memory space, an access management information file that includes a counter value indicating a maximum number of times that the archive file can be accessed.

2. (Rejected) The mobile phone according to claim 1, further comprising:

access management means for managing access to the at least one file whose archive file was created.

3. (Rejected) The mobile phone according to claim 2, further comprising:

file-link designating means for designating a link of files to be simultaneously opened,

wherein the file associating designating means generates a file-link designating file that designates a link between the at least one file whose archive file was created and the

access management information file in which access management information for the at least one file is described, and

when the at least one file whose archive file was created is accessed, the access management means simultaneously opens the access management file, performs access management in accordance with the access management information, and updates content of the access management information.

4. (Rejected) The mobile phone according to claim 3, wherein the access management means decrements the counter value every time the access management information file is opened.

5. (Rejected) The mobile phone according to claim 1, wherein the memory space employs a directory structure, and

the archive-file creating means creates an archive file for a directory to be backed up, wherein identification information of a destination terminal at which the archive file for the directory is to be decompressed is attached to the archive file.

6. (Rejected) An information management method for a mobile phone, comprising:

a communication step of transmitting/receiving data through a wireless or wired transmission path;

a data-processing step of processing, by the mobile phone, the data transmitted/received in the communication step;

a step of arranging a file, processed in the data processing step, in a memory space of the mobile phone;

an archive-file creating step of creating an archive file for at least one file to be backed up, identification information of a destination terminal at which the archive file is to be decompressed being attached to the archive file so that the archive file can be decompressed only at the destination terminal specified by the identification information; and

generating, in the memory space, an access management information file that includes a counter value indicating a maximum number of times that the archive file can be accessed.

7. (Rejected) The information management method according to claim 6, further comprising:

an access management step of managing access to the at least one file whose archive file was created.

8. (Rejected) The information management method according to claim 7, further comprising:

a file-link designating step of generating a file-link designating file designating a link of files to be simultaneously opened,

wherein, in the file-link designating step, a link between the at least one file whose archive file was created and the access management information file in which access management information for the at least one file is described is designated, and

in the access management step, when the at least one file whose archive file was created is accessed, the access management file is simultaneously opened, access management is performed in accordance with the access management information, and a content of the access management information is updated.

9. (Rejected) The information management method according to claim 8, wherein the counter value is decremented every time the access management information file is opened in the access management step.

10. (Rejected) The information management method according to claim 6, wherein the memory space employs a directory structure, and

in the archive-file creating step, an archive file for a directory to be backed up is created, identification information of a destination terminal at which the archive file for the directory is to be decompressed being attached to the archive file.

11. (Rejected) The mobile phone of claim 1, further comprising:

means for authenticating the access management information file using an independent key different from a symmetric key used to authenticate the archive file.

12. (Rejected) The mobile phone of claim 1, further comprising:

means for simultaneously authenticating the archive file and the access management information file.

EVIDENCE APPENDIX

None

RELATED PROCEEDING APPENDIX

None